



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### TIDEWATER REGIONAL OFFICE

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Francis L. Daniel  
Regional Director

## **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO SENTARA WILLIAMSBURG REGIONAL MEDICAL CENTER**

**Registration number 61497**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §10.1-1307.D, §10.1-1309, §10.1-1316.C, and §10.1-1184 between the State Air Pollution Control Board and Sentara Williamsburg Regional Medical Center, for the purpose of resolving certain violations of environmental law and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Boilers" means external combustion steam generating units.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.
6. "Distillate oil" means liquid fuel which meets the American Society for Testing Materials (ASTM) specification for numbers 1 and 2 fuel oil.
7. "Order" means this document, also known as a Consent Order.

8. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
9. "Sentara Williamsburg" means Sentara Williamsburg Regional Medical Center, certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.
10. "CFR" means Code of Federal Regulations.
11. "NSPS" means Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60.
12. "Regulations" means Virginia Regulations for the Control and Abatement of Air Pollution (9 VAC 5-80-10 et seq.).

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Sentara Williamsburg Regional Medical Center owns the medical facility ("the facility") under construction at 6601 Mooretown Road, York County.
2. On December 8 and 21, 2005, TRO staff visited the facility and discovered that two new boilers had been constructed, each with a capacity of 24,500,000 Btu per hour, and each capable of being fueled by natural gas and distillate oil. The two new boilers were in place although not operational, as the electrical service and fuel lines had not been connected.
3. On December 8 and 21, 2005 during the site visits, TRO staff also discovered that two new electrical generators had been constructed, each with a capacity of 1,250 kilowatts, and each capable of being fueled by distillate oil. The two new electrical generators were in place although not operational, as the electrical service and fuel lines had not been connected.
4. 9 VAC 5-80-1120(A)(Article 6) of the Regulations states: "No owner or other person shall begin actual construction, reconstruction, or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source."
5. 9 VAC 5-80-1110 (C)(Article 6) of the Regulations states: "'Begin actual construction' means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures."
6. 9 VAC 5-80-1110(C)(Article 6) of the Regulations states: "'Stationary source' means any building, structure, facility or installation, which emits any regulated air pollutant."

7. According to 9 VAC 5-80-1100(C), 1320(B)(1)(b) and (2)(b)(Article 6) of the Regulations, the facility two new boilers and two new electrical generators are not exempt from air permit requirements.
8. According to 9 VAC 5-50-400 of the Regulations and 40 CFR 60 Subpart Dc, the two boilers are of capacity and date of construction to be subject to NSPS standards for small industrial, commercial, institutional steam generating units with capacity greater than 10,000,000 Btu per hour but less than 100,000,000 Btu per hours and constructed after June 9, 1989.
9. Sentara Williamsburg did not have an air permit for the two new boilers and two new electrical generators located at the time of the inspections.
10. Sentara Williamsburg violated the Regulations by constructing two new boilers (NSPS) and two electrical generators without an air permit.
11. DEQ issued Sentara Williamsburg a Notice of Violation on December 30, 2005 informing of the above facts and applicable regulatory and statutory citations.
12. On January 10, 2006 an air permit application was received for the Sentara Williamsburg two new boilers and two new electrical generators located at the facility.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316.C, orders Sentara Williamsburg, and Sentara Williamsburg voluntarily agrees, to pay a civil charge of \$12,000.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," shall indicate Sentara Williamsburg's Federal Identification Number, and shall be sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Sentara Williamsburg, for good cause shown by Sentara Williamsburg, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Sentara Williamsburg by DEQ on December 30, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking

subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Sentara Williamsburg admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Sentara Williamsburg consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Sentara Williamsburg declares it has received fair and due process under the Administrative Process Act, Va. Code §§2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Sentara Williamsburg to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Sentara Williamsburg shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Sentara Williamsburg shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sentara Williamsburg shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Sentara Williamsburg. Notwithstanding the foregoing, Sentara Williamsburg agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Sentara Williamsburg. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sentara Williamsburg from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Sentara Williamsburg voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of March 28, 2006.

Francis L. Daniel  
Francis L. Daniel, Regional Director  
for David K. Paylor, Director  
Department of Environmental Quality

Sentara Williamsburg voluntarily agrees to the issuance of this Order.

By: Robert Graves  
ROBERT GRAVES

Date: 3/22/06

Commonwealth of Virginia

City/County of Williamsburg

The foregoing document was signed and acknowledged before me this 22<sup>nd</sup> day of

March, 2006, by Robert Graves, who is  
(name)

Administrator of Sentara Williamsburg, on behalf of the Sentara Williamsburg.  
(title)

None Carterbury  
Notary Public

My commission expires: 10/31/06